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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CYNTHIA BARCELO BLAKE, Reg. No.  
14927-097 Federal Correctional Institution -  
Camp Parks, Dublin, California,

Petitioner,

v.

SCHELIA A. CLARK, Warden, Federal  
Correctional Institution - Camp Parks, Dublin,  
California,

Respondent.

Case No. 4:07-CV-02899 CW

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

**LOCAL RULES 3-12 AND 7-11**

Pursuant to Local Rules 3-12 and 7-11, Petitioner LESLIE D. MOWER hereby makes this motion on the ground that the case of *Leslie D. Mower, Reg. No. 10178-081, Federal Correctional Institution – Camp Parks, Dublin, California v. Paul Copenhaver, Warden, Institution – Camp Parks, Dublin, California*, filed concurrently with this motion in the Federal District Court for the Northern District of California, is related to two cases already on file in the Northern District. This motion is based on the statement below, as well as the Declaration of Ernest Galvan and the Proposed Order filed herewith.

*Mower v. Copenhaver* is related to the following cases already on file before the Honorable Claudia Wilken:

*Blake v. Clark*, Case No. 4:07-CV-02899-CW (N.D. Cal. Filed June 4, 2007) (hereinafter *Blake*).

*Aragon v. Clark*, Case No. 4:07-CV-02925-CW (N.D. Cal. Filed June 5, 2007) (hereinafter *Aragon*).

## **I. RELATIONSHIP TO *BLAKE* AND *ARAGON***

### **A. These Cases Are Related Because They Involve The Same Event.**

The *Mower* and *Blake* cases are related because they “concern substantially the same parties... [and] event.” *See* Local Rule 3-12(a)(1).

In *Blake*, an inmate in the custody of the Bureau of Prisons (BOP) at Federal Correctional Institution (FCI) Dublin has filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241, naming now-former FCI Dublin Warden Schelia Clark as Respondent, and seeks relief from the BOP’s policy—a policy at odds with its authority under federal law—of refusing to exercise its discretion under federal law to grant a pre-release term of more than 10 percent of an overall term of imprisonment to a Community Corrections Center (CCC). This case is now pending in the Northern District of California before Judge Claudia Wilken.

In the instant case, Ms. Mower seeks a grant of habeas corpus under 28 U.S.C. § 2241, naming current FCI Dublin Warden Paul Copenhaver as Respondent, and seeks relief from the BOP’s policy and practice of refusing to consider an inmate for placement in community

1 confinement except for the last ten percent (10%) or six months, whichever is less, of an inmate's  
 2 time served. As the petitioner in *Blake* did, Ms. Mower requests that the court order the BOP,  
 3 promptly and in good faith, to consider the appropriateness of transferring the petitioner to a  
 4 CCC in light of the factors set forth in 18 U.S.C. § 3621(b) without reference to the 2002 BOP  
 5 policy and without reference to 28 C.F.R. § 570.21.

6 This same event, the BOP's practice of limiting consideration for pre-release CCC  
 7 placements to the lesser of 6 months or 10 percent of an inmate's full sentence, forms the basis of  
 8 the *Blake* case and the *Mower* case. Therefore, these cases are related under Local Rule 3-  
 9 12(a)(1).

10 **B. The Assignment of These Cases to a Single Judge Will Reduce Duplication of**  
 11 **Judicial Effort.**

12 Under the second requirement for relatedness under Local Rule 3-12(a), it "appears likely  
 13 that there will be an unduly burdensome duplication of labor and expense or conflicting results if  
 14 the cases are conducted before different Judges" because both cases involve the same respondent  
 15 and concern the BOP's duty to conduct evaluations for CCC placement without regard to the  
 16 same unlawful policy and regulation. *See* Local Rule 3-12(a)(2). Assigning *Mower* and *Blake* to  
 17 the same judge will likely effect substantial savings of judicial time and effort because the time  
 18 spent becoming familiar with the BOP policies and procedures in one case will not need to be  
 19 duplicated in the other case.

20 Because the *Mower* and *Blake* cases challenge the same event—the BOP's practice of  
 21 unlawfully limiting the exercise of its discretion, involve the same respondent, and concern  
 22 similar questions of fact and law that may create duplication of labor and expense as well as  
 23 conflicting results if conducted before different Judges, these cases are related under Local Rule  
 24 3-12(a)(1), (2).

25 **II. RELATIONSHIP TO ARAGON CASE**

26 The *Mower* and *Aragon* cases are also related in that they concern substantially the same  
 27 event. *See* Local Rule 3-12(a)(1). In *Aragon*, the petitioner, an inmate at FCI Dublin, has named  
 28 FCI Warden Clark as Respondent and has asked the court to order the BOP to consider

designating pre-release placement at a CCC without regard to the unlawful 2002 BOP policy and without reference to 28 C.F.R. § 570.21—that is, in good faith and in light of the factors set forth in 18 U.S.C. § 3621(b), to consider placing the petitioner at a CCC for a period greater than ten percent of her full sentence. As in *Mower*, the BOP's practice of limiting consideration for pre-release CCC placements to the lesser of 6 months or 10 percent of an inmate's full sentence, forms the basis of the *Aragon* case.

Thus, because *Mower* and *Aragon* involve similar questions of fact and law, the assignment of these two cases to a single judge will likely result in savings of judicial time and effort. See Local Rule 3-12(a)(2).

### III. OTHER CASES

Petitioner is aware of several other cases on file in the Northern District in which the petitioners seek release from BOP custody to a CCC: *Rivera v. Clark*, Case No. 5:07-CV-02420-JF (N.D. Cal. Filed May 4, 2007) and *Burlingame v. Clark*, Case No. 4:07-CV-03394-SBA (N.D. Cal. Filed June 28, 2007).

However, because Local Rule 3-12(b) requires that this Motion be submitted in the earliest filed related case, this Motion is being filed in the *Blake* case (filed on June 4, 2007). In addition, *Rivera v. Clark*, in which the petitioner seeks relief similar to that sought in the instant case, was referred by Judge Jeremy Fogel to Judge Wilken on July 12, 2007 for consideration as to whether *Rivera* may be related to another case before her. If so determined, *Rivera* would be the earliest filed related case, and this motion would be properly filed before Judge Wilken.

### CONCLUSION

The *Mower* case is related to the *Blake* case and to the *Aragon* case. Ms. Mower respectfully requests assignment of her case to the same District Judge.

Dated: July 30, 2007

Respectfully submitted,

ROSEN, BIEN & GALVAN, LLP

By: [s] Ernest Galvan  
Ernest Galvan  
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